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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Report of the Working Group on Arbitrary Detention

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INTRODUCTION

1. At its forty-seventh session, the Commission on Human Rights adopted resolution 1991/42, entitled "Question of arbitrary detention", by which it decided to create, for a three-year period, a Working Group composed of five independent experts, with the task of investigating cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned. The Commission also decided that the Working Group, in carrying out its mandate, shall seek and receive information from Governments and intergovernmental and non-governmental organizations, and shall receive information from the individuals concerned, their families or their representatives. It invited the Working Group to take account, in fulfilling its mandate, of the need to carry out its task with discretion, objectivity and independence, and to present a comprehensive report to the Commission at its forty-eighth session.

2. The Economic and Social Council, by its decision 1991/243 of 31 May 1991, approved the Commission's decision embodied in its resolution 1991/42.

3. Following consultations, the Chairman of the Commission on Human Rights at its forty-seventh session appointed the following experts as members of the Working Group: Mr. R. Garretón (Chile), Mr. L. Joinet (France), Mr. L. Kama (Senegal), Mr. K. Sibal (India) and Mr. P. Uhl (Czechoslovakia).

4. The Working Group held its first session in Geneva from 16 to 20 September 1991. At its first meeting, Mr. L. Joinet was elected Chairman/Rapporteur and Mr. R. Garretón, Vice-Chairman.

5. In conformity with paragraph 5 of Commission resolution 1991/42 the Working Group hereby presents its first report to the Commission. In view of the late date of the Working Group's creation, and, consequently, the fact that it did not hold its first session until late September 1991, the present report should be considered as a preliminary one, aiming principally at describing the Working Group's views on its mandate, its methods of work and principles applicable in the consideration of cases submitted to it, and its first initiatives. The Working Group considers that, being as it is in the early stages of its existence, it cannot at present provide the Commission with final conclusions and recommendations concerning the cases which have been submitted to it.

6. Section I of the report contains the Working Group's views on its mandate and the legal framework within which it has to carry out its activities; section II describes the Working Group's methods of work as adopted by the Working Group; section III contains a description of the Working Group's activities since its creation; and section IV describes several special situations which have been identified by the Working Group as requiring special consideration. Annex I contains the principles to be applied by the Working Group in considering cases submitted to it, and annex II contains a model questionnaire to be completed by persons alleging arbitrary arrest or detention. Both documents were adopted by the Working Group after it had considered its methods of work.

I. THE MANDATE AND LEGAL FRAMEWORK OF THE WORKING GROUP

7. The mandate of the Working Group is contained in Commission on Human Rights resolution 1991/42, whose preambular paragraphs refer to articles 3, 9 and 10, as well as to other relevant provisions of the Universal Declaration of Human Rights as a legal framework for the resolution. Reference is also made in paragraph 2 to "relevant international standards set forth ... in the relevant international legal instruments accepted by the States concerned"; a further reference is made to General Assembly resolution 43/173 of 9 December 1988, by which it adopted the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

8. Resolution 1991/42 also recalls three previous Commission on Human Rights resolutions and decisions on the question of administrative detention: resolutions 1985/16, 1988/45 and 1989/38 and decision 1990/107. Finally, emphasis is laid on the report on the practice of administrative detention submitted by Mr. L. Joinet to the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1990/29 and Add.1), the addendum to which contains the recommendations made to the Commission on Human Rights. The fifth preambular paragraph of the resolution specifically speaks of the "interest in giving concrete application to the analysis and recommendations formulated" in Mr. Joinet's report.

9. The operative part of resolution 1991/42 lays down the following tasks for the Working Group:

(a) to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned;

(b) to seek and receive information from Governments and intergovernmental and non-governmental organizations, and receive information from the individuals concerned, their families or their representatives;

(c) to present a comprehensive report to the Commission at its following session.

The Working Group is invited by the Commission to take account, in fulfilling its mandate, of the need to carry out its task with discretion, objectivity and independence.

10. The legal framework within which the Working Group will have to carry out its mandate is made up primarily of international standards and legal instruments, but in certain instances of domestic legislation as well. The Working Group will thus have to look into domestic legislation in investigating individual cases, where it will have to determine whether internal law has been respected and, in the affirmative, whether this internal law conforms to international standards. It may thus have to consider, in certain cases, whether the alleged practice of arbitrary detention is not made possible as a result of laws which may be in contradiction with international standards.

11. The second part of paragraph 3 concerns information received from "the individuals concerned, their families or their representatives". In order to enable the Working Group to decide whether individual cases submitted to it fall within its mandate, a questionnaire was prepared (see annex II), so as to obtain all necessary details about the alleged victim of arbitrary arrest or detention, the circumstances of arrest and detention, and the grounds for the complaint. Special emphasis is laid on why the complainant deems the arrest or detention to be arbitrary. This questionnaire is sent to individuals submitting communications and to non-governmental organizations providing the Working Group with information on individual cases and, once completed, will enable the information gathered to be more easily analysed and taken into consideration by the Working Group.

II. METHODS OF WORK OF THE WORKING GROUP

12. In order to formulate its own methods of work, the Working Group, during its first session, considered it appropriate to consult with representatives of the International Committee of the Red Cross and the United Nations High Commissioner for Refugees, with experts and members of the Secretariat dealing with similar procedures and with representatives of several international non-governmental organizations which, in the past, had provided the Centre for Human Rights with pertinent information on human rights violations, including arbitrary detention, and which had expressed the wish to make their views known to the Working Group. At the end of the session the Working Group adopted its methods of work, including annex I (Principles applicable in the consideration of cases submitted to the Working Group) and annex II (Model questionnaire to be completed by persons alleging arbitrary arrest or detention), which are annexed to the present report. It further decided to update these documents if this is deemed necessary, in the light of experience acquired while discharging its mandate.

13. The methods of work adopted by the Working Group are the following:

> "1. The methods of work are largely based on those applied, in the light of 11 years' experience, by the Working Group on Enforced or Involuntary Disappearances, with due regard for the specific features of the Group's terms of reference under Commission on Human Rights resolution 1991/42, whereby it has the duty of informing the Commission by means of a comprehensive report (para. 5), but also of "investigating cases" (para. 2).
>
> 2. The Group takes the view that such investigation should be of an adversarial nature so as to assist it in obtaining the cooperation of the State concerned by the case considered.
>
> 3. In the opinion of the Working Group, situations of arbitrary detention, in the sense of paragraph 2 of resolution 1991/42, are those described in accordance with the principles set out in annex I.
>
> 4. In the light of resolution 1991/42, the Working Group shall deem admissible communications received from the concerned individuals themselves or their families. Such communications may also be transmitted

to the Working Group by representatives of the above-mentioned individuals as well as by Governments and intergovernmental and non-governmental organizations.

5. The communications must be submitted in writing and addressed to the secretariat giving the family name, first name, and address of the sender, and (optionally) his telephone, telex and telefax numbers.

6. As far as possible, each case shall form the subject of a specific presentation indicating family name, first name and any other information making it possible to identify the person detained* and all elements clarifying the legal status of the person concerned, particularly:

- the date, place and the forces presumed to have carried out the arrest or detention together with all other information shedding light on the circumstances in which the person was arrested or detained;

- the reasons given by the authorities for the arrest or detention or the offences;

- the relevant legislation applied to the case in point;

- the internal steps taken, including domestic remedies, especially approaches to the administrative and legal authorities, particularly for verification of the detention and, as appropriate, their results or the reasons why such steps were ineffective or were not taken; and

- a short account of the reasons why the deprivation of liberty is regarded as arbitrary.

7. In order to facilitate the Group's work, it is hoped that communications will be submitted taking into account the model questionnaire contained in annex II.

8. Failure to comply with all formalities set forth in paragraphs 6 and 7 shall not directly or indirectly result in the inadmissibility of the communication.

9. The communications shall be transmitted, on the decision of the Working Group, to Governments, which shall be asked to reply after having carried out the appropriate enquiries so as to provide the Group with the fullest possible information. The cases notified shall be brought to the attention of the Government concerned by the Chairman of the Group or, if he is not available, by the Vice-Chairman, by means of a letter transmitted through the permanent representative to the United Nations.

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* "Detained" means and includes detention before, during and after trial.

10. The communication shall be transmitted with an indication of the deadline established for receipt of a reply. The deadline may not exceed 90 days. If the reply has not been received by the time the deadline is reached, the Working Group may, on the basis of all data compiled, take a decision.

11. The procedure known as "urgent action" may be resorted to:

(a) in cases in which there are sufficiently reliable allegations that a person is being detained arbitrarily and that the continuation of the detention constitutes a serious danger to that person's health or even life. In such cases, between the Working Group's sessions, the Working Group authorizes its Chairman, or, in his absence, the Vice-Chairman, to transmit the communication by the most rapid means to the Minister for Foreign Affairs of the country concerned, stating that this urgent action in no way prejudges the Working Group's final assessment of whether the detention is arbitrary or not;

(b) in other cases, where the detention may not constitute a danger to a person's health or life, but where the particular circumstances of the situation warrant urgent action. In such cases, between the Working Group's sessions, the Chairman or the Vice-Chairman in consultation with two other members of the Working Group, may also decide to transmit the communication by the most rapid means to the Minister for Foreign Affairs of the country concerned.

However, during sessions, it devolves on the Working Group to take a decision whether to resort to the urgent action procedure.

12. Between the Working Group's sessions, the Chairman may, either personally, or by delegating any of the members of the Group, request an interview with the permanent representative to the United Nations of the country in question in order to facilitate mutual cooperation.

13. Any information supplied by the Government concerned on specific cases shall be transmitted to the sources from which the communications were received, with a request for comments on the subject or additional information.

14. In the light of the information examined during its investigation the Working Group shall take one of the following decisions:

(a) If the person has been released, for whatever reason, since the Working Group took up the case, the case is filed;

(b) If the Working Group determines that it is established that the case is not one of arbitrary detention, the case is also filed;

(c) If the Working Group decides that it does not have enough information to take a decision, the case remains pending for further investigation;

(d) If the Working Group decides that the arbitrary nature of the detention is established, it shall make recommendations to the Government concerned. The recommendations shall also be brought to the attention of the Commission on Human Rights in the Working Group's annual report to the Commission.

15. When the case under consideration concerns a country of which one of the members of the Working Group is a national, the latter shall not, in principle, participate in the discussion because of the possibility of a conflict of interest.

16. The Working Group will not deal with situations of international armed conflict in so far as they are covered by the Geneva Conventions of 12 August 1949 and their Additional Protocols, particularly when the International Committee of the Red Cross (ICRC) has competence."

III. ACTIVITIES OF THE WORKING GROUP

14. On 14 October 1991, in keeping with paragraph 9 of the methods of work referred to above, the Chairman of the Working Group sent letters to the following Governments (the number of cases transmitted is given in parentheses): Bhutan (6), China (15), Cuba (64), Islamic Republic of Iran (9), Lao People's Democratic Republic (2), Libyan Arab Jamahiriya (9), Malawi (3), Morocco (24), Myanmar (2), Sudan (12) and the Syrian Arab Republic (60). On 6 December 1991, the Chairman of the Working Group sent letters to the following Governments: Chile (3), Mexico (1), Myanmar (1), Peru (1), Sudan (6), Tunisia (1), Turkey (2) and the United Republic of Tanzania (2). In those letters the Working Group transmitted to the Governments concerned cases of alleged arbitrary detention which were reported to have occurred in their countries, and asked them to make enquiries and inform the Group of the results within 90 days from the date of the transmittal.

15. The Working Group held its second session from 16 to 20 December 1991. As of 16 December replies had been received from the Governments of Bhutan, Chile, Mexico and the Syrian Arab Republic. Replies from the Governments of Cuba, Myanmar and Sudan (concerning the cases transmitted to those two Governments on 14 October 1991) and Tunisia were received after the Working Group had concluded its second session; the Group was therefore not in a position to take a decision on the cases concerning those countries.

16. Having considered the reply from the Government of Bhutan, the Working Group felt that further clarifications were necessary and, for that purpose, invited the Permanent Representative of Bhutan to the United Nations Office at Geneva to provide additional information concerning the cases transmitted to the Government. The Permanent Representative of Bhutan informed the Working Group that, on the occasion of the National Day of Bhutan, 17 December 1991, the King, had granted amnesty to three of the six persons whose cases had been transmitted to the Government, namely Bhakti Prasad Sharma, Bishwanath Chettri and Ratan Gazmere, and that the cases of the other three were under consideration. In the light of this information, the Working Group decided to inform the source of the allegation about the Government's replies, to seek further information on the conditions of release of the three persons and to consider the cases at its next session.

17. The Government of Mexico informed the Working Group that the case transmitted to it, regarding the priest Joel Padrón González, had been resolved since that person had been released on 6 November 1991. The release was obtained following the filing of a writ of amparo on his behalf. The Group decided to consider the case closed.

18. The Government of Chile informed the Working Group that one of the persons whose case was transmitted, Miryam Ortega Araya, had been released in November 1991, by virtue of a presidential pardon. The two other persons were still under detention. A presidential pardon had been requested for one of them and a decision was expected shortly. The third person remained under judicial detention and the court had recently rejected a request for the person's release. The Working Group decided to defer the cases until its next session.

19. The Government of the Syrian Arab Republic informed the Working Group that, of the 59 women who had allegedly been arbitrarily detained, 17 "were not detained and were engaging in their normal occupation", 27 others "were accused of involvement in acts of sabotage and terrorism by clandestine organizations and [had] all been released", and the remaining 15 had "no problem with the law and [were] not detained". The Government also informed the Working Group that one person whose case had been transmitted had been "referred to the courts". The Working Group decided to ask the Government for more details about the dates of arrest and release of the persons concerned, to inform the source of the allegation about the Government's reply and to defer its decision on the matter until its next session.

20. The Working Group decided that, in considering the cases submitted to it, in a spirit of cooperation and coordination, it would seek, whenever necessary, information from other relevant United Nations bodies and, in particular, Special Rapporteurs of the Commission and the Sub-Commission and the treaty monitoring bodies. The Working Group likewise expressed its willingness to share the information at its disposal with any United Nations organ wishing to have such information.

21. In the course of its second session, the Working Group decided to transmit letters to the following Governments (the number of cases transmitted is given in parentheses): China (5), Egypt (1), Israel (2), Republic of Korea (1), Lao People's Democratic Republic (1), Malaysia (1), Nigeria (1), Saudi Arabia (1) and Uganda (1). The Working Group also decided to transmit a case to the Government of the Lao People's Democratic Republic by means of the urgent action procedure. The case concerned a person who had allegedly been detained since 1975 without charge or trial and whose state of health was said to be alarming. The Working Group appealed to the Government to see to it that the person was given adequate medical treatment and to guarantee his right to physical integrity.

22. At the time of the preparation of the present report, the Working Group was still awaiting replies to letters transmitted to the following Governments: China, Iran (Islamic Republic of), Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malawi, Morocco, Myanmar (regarding cases transmitted on 6 December 1991), Sudan (regarding cases transmitted on 6 December 1991), Peru, Turkey and United Republic of Tanzania.

IV. SPECIAL SITUATIONS RECEIVING THE CONSIDERATION OF THE WORKING GROUP

23. In considering the above cases, the Working Group identified a number of legal situations which it decided to look into for consideration at its next session. They are as follows:

(a) Failure to take pre-trial detention into account: in some of the cases submitted, the person sentenced to a term of imprisonment must serve the full term, in addition to the period spent in pre-trial detention. Should continued detention after completion of the sentence for a period equivalent to the length of pre-trial detention be considered as arbitrary detention under category I referred to in annex I?;

(b) Failure to take detention prior to extradition into account: in the same vein, the Working Group considered whether detention prior to extradition should not be regarded as arbitrary if it is not taken into account in the sentence finally pronounced in the requesting country;

(c) Restricted residence: with regard to category II referred to in annex I, when a person is placed under restricted residence in his house or in any premises other than a prison or police station, in what circumstances may such deprivation of freedom constitute arbitrary detention within the meaning of the Working Group's mandate?;

(d) Rehabilitation through labour: the Working Group will have to determine whether measures taken most often in the form of administrative detention and generally designed to encourage an individual to change or even renounce his opinions, using methods resembling coercion, constitute, by definition, arbitrary detention under category II referred to in annex I;

(e) Extradition not followed by trial: the purpose of any application for extradition is to enable the requesting country to bring the extradited individual to justice so as to obtain a conviction, if warranted. If, after extradition, the person is deprived of his liberty without being brought before a court within a reasonable period, is this not arbitrary detention under category I or III referred to in annex I?

(f) Grave and multiple violations of the right to a fair trial under category III referred to in annex I: an examination of numerous cases shows that, where some of the principles listed in annex I are not applied, the gravity of the violation of the right to a fair trial is such that it confers an arbitrary character on the decision to deprive an individual of his freedom. In some cases, the violation of a few, or even one of those principles, particularly where they are not fundamental, may be sufficient for a determination as to whether there has been a violation of the right to a fair trial, without necessarily justifying the conclusion that the detention is of an arbitrary nature. In at least one case, however, namely the violation of the principle of non-retroactivity of aggravating criminal laws, the importance of this principle is such that violation of it could in itself confer an arbitrary character on the deprivation of freedom.

Annex I

Principles applicable in the consideration of cases submitted to the Working Group

With a view to taking a decision, the Working Group proposes to proceed as follows for the consideration of cases submitted to it. The Working Group will consider such cases if they fall into one, or more, of the following three categories:

I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or

II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or

III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character. In order to assess the arbitrary character or otherwise of the deprivation of freedom, the following elements, in particular, are deemed relevant:

A. Pre-trial situations (applicable to both judicial and administrative detention*)

1. Cases in which arrest, detention or imprisonment is not carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose (Principles 2 and 4 of the Body of Principles; article 9 (1) of the International Covenant on Civil and Political Rights);

2. Cases of detention in which the authorities exceed the powers granted to them under the law and where the exercise of those powers is not subject to recourse to a judicial or other authority (Principle 9 of the Body of Principles);

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* As regards administrative detention, the various categories of such detention are described in detail in the report submitted by Mr. Joinet to the forty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1990/29, paras. 28-46).

3. Cases in which a person arrested is not informed, in a language which he understands, of the reasons for his arrest, and the charges against him and is not given information or an explanation concerning his rights. (Principles 10, 13 and 14 of the Body of Principles; article 9 (2) of the International Covenant on Civil and Political Rights);

4. Cases in which a person arrested is denied the opportunity to be heard promptly by a judicial or other authority (Principle 11 (1) of the Body of Principles);

5. Cases in which a detained person is denied his right to defend himself or to be assisted by a legal counsel, or the right to have such counsel assigned to him (Principles 11, para. 1, and 17 of the Body of Principles);

6. Cases in which a detained person and his counsel do not receive prompt and full communication of any order of detention, and the reasons therefore (Principle 11, para. 2, of the Body of Principles);

7. Cases in which the continuance of detention is not subject to a review by a judicial or other authority (Principle 11, para. 3, of the Body of Principles);

8. Cases in which information concerning the detention is not duly recorded (Principle 12 of the Body of Principles);

9. Cases of unduly prolonged incommunicado detention (Principle 15 of the Body of Principles);

10. Cases in which the detainee is not entitled to promptly notify his family of his arrest, detention, or transfer to another place of detention or to communicate with a consular post, a diplomatic mission or a representative of a competent international organization (Principle 16 of the Body of Principles);

11. Cases in which a detained person is denied his right to communicate and consult, without delay or censorship and privately, with his legal counsel when there are no "exceptional circumstances" to justify such a denial (Principle 18 of the Body of Principles);

12. Cases in which the detainee is denied the right to be visited by, and to correspond with, in particular, his family and to communicate with the outside world - within the limits of reasonable conditions and restrictions as specified by law or lawful regulations (Principle 19 of the Body of Principles);

13. Cases where undue advantage is taken of a detainee's situation to compel him to confess, to incriminate himself otherwise or to testify against any other person (Principle 21 of the Body of Principles);

14. Cases in which a detained person, or his counsel, is denied his right to institute proceedings, at any time, before a judicial or other authority to challenge the lawfulnes of his detention (Principle 32, para. 1, of the Body of Principles);

15. Cases in which a person suffers administrative detention for an obviously abusive period of time.

B. Pre-trial situations applicable only to judicial detention

1. Cases in which a detained person suspected of or charged with a criminal offence is denied his right to be presumed innocent and to be treated as such pending his trial, and is subjected to undue restrictions (Principle 36 of the Body of Principles);

2. Cases in which a person suspected of a criminal offence is detained pending investigation or trial without a written order by a judicial or other legal authority (Principle 37 of the Body of Principles);

3. Cases of unduly prolonged pre-trial detention (Principle 38 of the Body of Principles, arts. 9 (3) and 14, para. 3 (c), of the International Covenant on Civil and Political Rights);

4. Cases in which a person arrested or detained on a criminal charge is denied the right to be brought promptly before a judge or other officer authorized by law to exercise judicial power (art. 9, para. 3, of the International Covenant on Civil and Political Rights).

C. Post-trial imprisonment

1. Cases of imprisonment following conviction resulting from trials of whatever nature held in violation of internationally accepted norms, in particular the following:

(a) Trial which is not held by a competent, independent and impartial tribunal established by law (art. 14, para. 1, of the International Covenant on Civil and Political Rights);

(b) Trial in which the defendant was not informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him (art. 14, para. 3 (a), of the International Covenant on Civil and Political Rights);

(c) Trial in which the defendant did not have the adequate time and facilities for the preparation of his defence and to communicate with his counsel (art. 14, para. 3 (b), of the International Covenant on Civil and Political Rights);

(d) Trial in which the defendant is not tried in his presence and is denied the right to defend himself in person or through legal assistance of his own choosing (art. 14, para. 3 (d), of the International Covenant on Civil and Political Rights);

(e) Trial in which the defendant is denied the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him (art. 14, para. 3 (e), of the International Covenant on Civil and Political Rights);

(f) Trial in which the defendant is denied the right to the free assistance of an interpreter, if he cannot understand or speak the language used in court (art. 14, para. 3 (f), of the International Covenant on Civil and Political Rights);

(g) Trial in which the defendant is compelled to testify against himself or to confess guilt (art. 14, para. 3 (g), of the International Covenant on Civil and Political Rights);

(h) Trials in which the defendant is presumed to be guilty till he proves his innocence during the course of such trial (art. 14, para. 2, of the International Covenant on Civil and Political Rights);

2. Cases of denial of the convicted person's right to have his conviction and sentence reviewed by a higher tribunal (art. 14, para. 5, of the International Covenant on Civil and Political Rights);

3. Cases of imprisonment following conviction for acts for which the same person has already been tried and convicted and served the sentence, or acquitted, by a national or foreign court (art. 14, para. 7, of the International Covenant on Civil and Political Rights);

4. Cases of imprisonment following conviction in violation of the principle that no one shall be held guilty of any act or omission which did not constitute a criminal offence at the time when it was committed (art. 15 of the International Covenant on Civil and Political Rights);

5. Cases of sentencing to prison terms longer than the term provided by law.

Annex II

Model questionnaire to be completed by persons alleging arbitrary arrest or detention 1/

I. Identity of the person arrested or detained

1. Family name: .....

2. First name: .....

3. Sex: (Male) (Female)

4. Birth date or age (at the time of detention): .....

5. Nationality/Nationalities: .....

6. (a) Identity document (if any): .....

   (b) Issued by: .....

   (c) On (date): .....

   (d) No.: .....

7. Profession and/or activity (if believed to be relevant to the arrest/detention):

   .....

8. Address of usual residence: .....

   .....

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1/ A separate questionnaire must be completed for each case of alleged arbitrary arrest or detention. As far as possible, all details requested should be given. Nevertheless, failure to do so will not necessarily result in the inadmissibility of the communication.

II. Arrest 2/

1. Date of arrest: .....

2. Place of arrest (as detailed as possible):

   .....

   .....

   .....

3. Forces who carried out the arrest or are believed to have carried it out:

   .....

4. Did they show a warrant or other decision by a public authority?

   (Yes) (No)

5. Authority who issued the warrant or decision: .....

   .....

6. Relevant legislation applied (if known): .....

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2/ For the purpose of this questionnaire, "arrest" refers to the initial act of apprehending a person. "Detention" means and includes detention before, during and after trial. In some cases, only section II, or section III may be applicable. None the less, whenever possible, both sections should be filled in.

III. Detention 2/

1. Date of detention: .....

2. Duration of detention (if not known, probable duration): .....

3. Forces holding the detainee under custody: .....

.....

4. Places of detention (indicate any transfer and present place of detention):

.....

5. Authorities that ordered the detention: .....

.....

6. Reasons for the detention imputed by the authorities: .....

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.....

7. Relevant legislation applied (if known): .....

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IV. Describe the circumstances of the arrest and/or the detention and indicate precise reasons why you consider the arrest or detention to be arbitrary 3/

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.....

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3/ Copies of documents that prove the arbitrary nature of the arrest or detention, or help to better understand the specific circumstances of the case, as well as any other relevant information, may also be attached to this questionnaire.

V. Indicate internal steps, including domestic remedies, taken especially with the legal and administrative authorities, particularly for the purpose of establishing the detention and, as appropriate, their results or the reasons why such steps or remedies were ineffective or why they were not taken

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VI. Full name and address of the person(s) submitting the information (telephone and fax number, if possible) 4/

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.....

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Date: ..... Signature: .....

4/ If a case is submitted to the Working Group by anyone other than the victim or his family, such person or organization should indicate authorization by the victim or his family to act on their behalf. If, however, the authorization is not readily available, the Working Group reserves the right to proceed without the authorization. All details concerning the person(s) submitting the information to the Working Group, and any authorization provided by the victim or his family, will be kept confidential.

This questionnaire should be addressed to the Working Group on arbitrary detention, Centre for Human Rights, United Nations Office at Geneva, 8-14 avenue de la Paix, 1211 Geneva 10, Switzerland, fax No. (022) 733.98.79; telex 41.29.62.